



ORIGINAL

EX PARTE OR LATE FILED
EX PARTE OR LATE FILED

Ernest B. Kelly, III, President

January 18, 2001

RECEIVED

JAN 18 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The Honorable William E. Kennard
Chairman
Federal Communications Commission
Room A302
445 12th Street, SW
Washington, D.C. 20554

Re: CC Docket No. 96-98 (UNE Remand Proceeding)

Dear Chairman Kennard:

In a January 4, 2001, letter to the Commission, a large group of prominent competitive local exchange carriers implored the agency to require incumbent local exchange carriers to make unbundled local switching (ULS) more broadly available to competitors seeking to enter local markets. The CLECs persuasively argued that greater access to ULS would enable new entrants to (1) serve a broader base of customers, (2) establish a broader market footprint, and (3) focus more resources on customer service and retention. In short, making ULS more broadly available would substantially increase competition in local telephone markets.

The Association of Communications Enterprises is writing for two reasons. First, by wholeheartedly seconding the position taken by our colleagues in the letter cited above, we wish to again go on record in expressing strong support for making ULS and, by extension, the Unbundled Network Element (UNE) – Platform universally available to all competitive local carriers. Indeed, competitive local exchange carriers should have access to ULS and the UNE-Platform regardless of the types of customers they wish to serve and the markets in which they choose to operate. We firmly believe this was the intent of the 1996 Telecommunications Act and any restrictions placed on these technologies certainly would violate the spirit if not the letter of the law.

Our second purpose for writing today is to bring to the Commission's attention a survey conducted recently by ASCENT to determine the implementation of the UNE-Platform on a state-by-state basis. As you can see from the attached summary, the survey found a disturbing lack of progress by many states in ensuring that the UNE-Platform is available to competitive carriers. In fact, nearly five years after enactment of the 1996 Act, officials in approximately half of the 50 states have yet to take the steps necessary to make the UNE-Platform readily and meaningfully available to competitors.

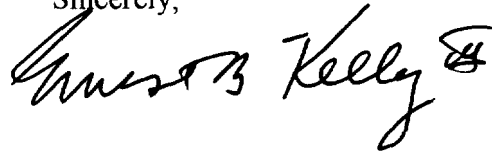
No. of Copies rec'd 012
L1 A B C D E

As you are well aware, the 1996 Act established three means by which new entrants could compete against incumbent LECs and bring significant competition to local phone markets: interconnection, unbundled network elements, and resale. As we look back over the past five years, we see that none of these has proven to be the competitive potion framers of the Act had envisioned – at least not yet. For this very reason, the Commission must persist in maximizing the competitive potential of each method of market entry. With respect to unbundled network elements, this certainly means giving competitive carriers universal access to the UNE-Platform.

It is our hope the ASCENT survey will prompt the Commission to assert its leadership role in the implementation of the 1996 Act by undertaking an ongoing program to remind the states of the importance of the UNE-Platform to local competition. More importantly, the program should persuade non-compliant states of the need to make the UNE-Platform readily and meaningfully available to competitive service providers.

Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernest B. Kelly" followed by a stylized flourish or initial.

cc: Commissioner Furchtgott-Roth
Commissioner Ness
Commissioner Powell
Commissioner Tristani

Dorothy Attwood
Rebecca Beynon
Michelle Carey
Kyle Dixon
Jordan Goldstein
Anna Gomez
Jonathan Reel
Magalie Roman Salas, Secretary
Deana Shetler

ASCENT
Status of Unbundled Network Element Platform Availability
January 18, 2001

State	Commission UNE-P Requirement	Regulatory Status	Docket Number
Alabama	No	The Commission has not yet addressed UNE-P, but may do so later this year. Currently, the Commission is focusing on UNE pricing. It has adopted current BellSouth and GTE UNE rates as interim rates, and is working on establishing permanent, deaveraged rates.	26029
Alaska	Yes	The Commission ordered the provision of UNE-P in orders issued in arbitrated interconnection disputes.	U-9689; U-96127
Arizona	No	The Commission has not ordered UNE-P, although it is available via negotiated interconnection agreements. The Commission has indicated a desire to test UNE-P as part of the third-party operations support system tests that will be conducted on Qwest's systems. A UNE pricing proceeding is also ongoing.	T-00000A-00-0194
Arkansas	No	UNE-P is available only through negotiated interconnection agreements. However, competitors are usually able to obtain UNE-P in this manner.	None
California	Yes	The Commission interpreted the United States Supreme Court's September, 1999 Order to require incumbents to provide UNE-P. Consequently, the Commission ordered Pacific Bell to provide UNE-P in a November 18, 1999 Order.	D.99-11-050 R.93-04-003/L.93-04-002
Colorado	Yes	UNE-P is provided by Qwest under its statement of generally available terms.	99A-577T
Connecticut	Yes	The Department on March 16, 1999 ordered Southern New England Telephone to provide up to five UNE combinations requested by competitors, including UNE-P. SNET indicated in that proceeding it was already providing UNE-P.	98-10-16
Delaware	No	UNE-P was addressed only in proceedings arbitrating AT&T and Verizon's interconnection agreement. In that proceeding, AT&T asked the Commission to order Verizon to provide UNE-P, but was told in 1998 to go back and renegotiate the agreement with Verizon to attempt to get UNE-P through negotiation before the Commission would address the issue. AT&T has not asked the Commission to revisit UNE-P provisioning.	313-98
Florida	No	The Commission considers the FCC's Order in docket 99-238 to be controlling, requiring all incumbents to provide UNE-P nationwide, and obviating the need for a state-specific order directing UNE-P provisioning. The Commission is addressing UNE pricing in an ongoing docket.	990649-TP
Georgia	Yes	The Commission ordered BellSouth to provide UNE-P on February 1, 2000. The Commission also initiated a UNE pricing docket in March, 2000 which is still ongoing.	10692-U (Provisioning) U-11900 (Pricing)
Hawaii	No	The Commission has not required incumbent provision of UNE-P, but does encourage provisioning through interconnection agreements. Commission does believe it has the authority to require UNE-P, should the issue arise.	7702
Idaho	No	UNE-P has been addressed only through the arbitration of an interconnection agreement between AT&T and US West which included UNE-P. Qwest has interpreted this arbitration order to apply only to provisioning of UNE-P to existing customers, not to new customers.	None
Illinois	No	UNE-P is available only to residential customers under the SBC-Ameritech merger conditions effective in Illinois. UNE-P is also available via interconnection agreements, but is not used extensively due to provisioning problems that competitors have been experiencing with Ameritech. The company won't combine new and existing lines or let competitors use shared transport to provide intraLATA toll. Rather, Ameritech requires competitors to use their own facilities or pay access fees. The Illinois Commerce Commission is addressing these competitor concerns in recently-opened docket 00-1700.	98-0555 00-1700
Indiana	No	UNE rates were established by the Commission in an August 16, 2000 order, and the Commission plans to address UNE-P during 2001. The testing of Ameritech's provisioning of UNE-P has also been included in the Ameritech Indiana Operations Support System Master Test Plan.	41657
Iowa	No	The Commission has issued no order requiring Qwest to provide UNE-P to competitors, nor does it have immediate plans to address the issue.	None
Kansas	Yes	A September 30, 1999 Commission order in an arbitrated interconnection dispute between AT&T and Southwestern Bell directs Southwestern Bell to combine UNEs in "any feasible manner".	97-AT&T-290-ARB

ASCENT
Status of Unbundled Network Element Platform Availability
January 18, 2001

State	Commission UNE-P Requirement	Regulatory Status	Docket Number
Kentucky	Yes	BellSouth is required to provide UNE-P to competitors under a 1997 Commission order. UNE-P is also available through interconnection agreements. A UNE pricing proceeding is currently underway.	Adm. Case No. 382
Louisiana	No	UNE-P is available only via interconnection agreements. An ongoing UNE deaveraging docket includes some UNE combinations, and may address UNE-P.	U-24714-A
Maine	No	The Commission has not addressed any UNE issues, including UNE-P, and has no immediate plans to do so.	None
Maryland	Yes	Verizon is required to provide UNE-P to competitors under a 1998 Commission order. UNE rates have not yet been established. The Commission is currently relying on rates established in interconnection agreements.	8731
Massachusetts	Yes	Verizon-Massachusetts Tariff No. 17 provides UNE-P. The tariff was approved by the Department on May 4, 2000.	DTE 98-57, Phase II
Michigan	Yes	A February 9, 2000 Commission order requires Ameritech to provide UNE-P to competitors. However, Ameritech has yet to make a tariff filing providing an unrestricted UNE-P offering. A January 4, 2001 Commission order restates the requirement that Ameritech provide competitors with combinations of UNEs that the company "ordinarily combines."	U-11104, U-12143, U-12320
Minnesota	No	The Commission ordered Qwest to provide UNE-P to MCI, AT&T, and Sprint in court remanded resolution of a complaint brought by those three companies. However, for the remainder of competitors, Qwest has been ordered only to provide certain UNEs, not UNE-P specifically. UNE-P is included in Qwest's Minnesota Statement of Generally Available Terms, currently under review by the Commission. The Statement of Genrerally Available Terms should go into effect by late January, 2001.	P-442,5321,3167,466,421/96-1540;P-999/CI-99-465
Mississippi	No	An ongoing Commission proceeding addresses UNE pricing and availability. Hear	97-AD-554
Missouri	Yes	UNE-P is available to all competitors under arbitrated interconnection agreements.	TO-97-40; T)-97-63
Montana	No	A UNE proceeding was initiated March 2000, which will address UNE-P availability. Hearings in this matter are anticipated in May or June 2001.	D.2000.6.89
Nebraska	Yes	UNE-P is provided by Qwest under its Nebraska Statement of Generally Available Terms.	C-1830
Nevada	No	UNE-P has not been addressed through a formal rulemaking, but has been reviewed by the Commission on a case-by-case basis. Nevada Bell offers UNE-P to competitors under the SBC-Ameritech merger conditions which are effective in Nevada. A UNE pricing docket is ongoing.	00-7012 (UNE Pricing)
New Hampshire	No	The Commission has not addressed UNE-P. However, Verizon filed an amended Statement of Generally Available Terms on August 4, 2000 which provides UNE-P. The Commission allowed the Statement of Generally Available Terms to go into effect pending its review and possible Commission-ordered revisions.	DTE 97-271
New Jersey	Yes	Verizon is required to provide UNE-P to competitors under a September 29, 1999 Board order.	TX98010010
New Mexico	No	UNE-P is available only through negotiated interconnection agreements. The Commission has not addressed the issue, and has no immediate plans to do so.	None
New York	Yes	Verizon is required to provide UNE-P to competitors under a 1998 Commission order.	98-C-0690
North Carolina	No	UNE-P is available only through negotiated interconnection agreements. However, the Commission plans to address UNE-P provisioning in Phase II of its UNE Docket, which commenced in October 2000.	P-100, Sub133D
North Dakota	No	UNE-P is available only through negotiated interconnection agreements. The Commission has not addressed this issue, and has no immediate plans to do so.	None
Ohio	Yes	The Commission has ordered Ameritech to provide UNE-P to competitors. UNE-P is also available under the SBC-Ameritech merger conditions effective in Ohio. Ameritech has filed a proposed carrier-to-carrier tariff and model interconnection agreement which provides UNE-P. The Commission is considering the terms of that filing. A UNE pricing docket is ongoing.	93-487-TP-AIT 96-922-TP-UNC 00-942-TP-COI 00-1368-TP-ATA
Oklahoma	Yes	UNE-P is required under a 1997 Commission order issued in an interconnection arbitration between AT&T and Southwestern Bell.	97-213

ASCENT
Status of Unbundled Network Element Platform Availability
January 18, 2001

State	Commission UNE-P Requirement	Regulatory Status	Docket Number
Oregon	Yes	A June 19, 2000 Commission order prohibits separation of currently combined UNEs and requires Qwest and GTE to provide all technically feasible UNE combinations.	UT138, UT139
Pennsylvania	Yes	The Commission ordered Verizon to provide UNE-P to competitors as part of its August 26, 1999 Global Settlement Order. A UNE pricing proceeding is ongoing.	P-00991648/49 R-00005261
Rhode Island	Yes	An August 1999 Commission order requires Verizon to provide UNE-P to competitors.	2681
South Carolina	No	A Commission June 1, 1998 order found that Bell South is not obligated to provide UNE-P to its competitors.	97-374C, Order 98-214
South Dakota	No	The Commission has not addressed UNE-P provisioning. UNE-P is contained in Qwest's South Dakota Statement of Generally Available Terms, which has not yet been approved by the Commission.	None
Tennessee	No	UNE-P is available only through negotiated interconnection agreements. A UNE pricing docket is ongoing.	97-01262
Texas	Yes	arbitration of interconnection agreements between AT&T and Southwestern Bell. UNE-P is also available under the Texas model interconnection agreement (T2A), and is part of the conditions of Southwestern Bell's Texas in-region interLATA entry.	16251; 16226
Utah	Yes	A June 5, 1998 Commission order finds UNE-P provisioning to be required under both state and federal law, and requires Qwest to provide UNE-P to competitors.	96-087-03/96-095-01
Vermont	Yes	The Commission has ordered Verizon to provide all UNE combinations provided in other states. The New York Commission order requiring UNE-P provisioning is specifically referenced in the Commission's order, which Verizon has appealed.	5900
Virginia	No	No UNE-P issues have ever come before the Commission	None
Washington	Yes	The Commission has ordered Qwest to offer UNE-P to its competitors. A UNE pricing docket is ongoing.	UT-003013
West Virginia	Yes	A January 4, 2001 Commission order in Docket No. 00-0165 approved an interconnection agreement between Verizon and Fairpoint which provides UNE-P. The Commission had previously declined to require Verizon to provide UNE-P.	00-0165 96-1516
Wisconsin	Yes	UNE-P will be addressed in the Commission's proceeding to examine Qwest's Wisconsin operations support systems. Qwest filed a proposed UNE-P tariff in June 2000. The Commission appears to believe that UNE-P is necessary.	6720-TI-160
Wyoming	No	The Commission has not addressed UNE-P, but anticipates addressing the issue in the near future.	None